



**United States Environmental Protection Agency  
Region 2  
Fiscal Year 2003  
Enforcement and Compliance Accomplishments Report**



## **OVERVIEW**

In Fiscal Year 2003, Region 2 continued to demonstrate a sound and effective compliance assurance program incorporating principles of smart enforcement with our children's health and environmental justice initiatives. Environmental benefits nationwide increased an estimated 131 percent over Fiscal Year 2002. Estimated pollutants reduced, treated, or properly managed totaled approximately 600 million pounds, compared to 260 million in the previous year. Region 2 (New York, New Jersey, Puerto Rico, and the U.S. Virgin Islands) continued its strong enforcement program in the past fiscal year as well, with actions that either reduced, treated or properly managed more than 40 million pounds of pollution. In addition, about 1.8 million people now drink safer water due to actions taken by EPA Region 2.

As a result of EPA Region 2's enforcement settlements in FY 2003, over \$360 million in injunctive relief will be spent to correct violations, restore the environment and prevent additional damage to future generations.

The Region saw increases in inspections of over 10 % and administrative complaints of almost 50 % in FY 2003. We reached over 112,000 entities through our compliance assistance efforts, held nearly 300 workshops and visited more than 180 facilities to help operators and managers better understand and comply with environmental law. Using a balanced combination of compliance assistance, incentives, and enforcement, Region 2 continues to bring more facilities into and beyond compliance with the laws that protect public health.

### **Pollutant Reductions**

40,145,024 lbs reduced/treated/properly managed  
1,596,992 lbs contaminated soil/sediment  
3,750,000 gallons wastewater/groundwater treated  
6 acres wetlands restored  
1,830,205 people receiving safer water

## **FY2003 Accomplishments**

### **COMPLIANCE MONITORING INSPECTION ACTIVITY**

FY99	FY00	FY01	FY02	FY03
3285	2520	2348	2456	2734

### **ADMINISTRATIVE COMPLAINTS**

FY99	FY00	FY01	FY02	FY03
117	134	192	158	303

### **Illegal Pesticides Sweeps**

During FY 2003, as part of the Region 2 Urban Illegal Pesticides Initiative launched in 2001, we continued efforts at curbing the sale and use of illegal pesticides in low income and minority communities. It has been previously documented that sales and use of illegal pesticides occurred more prevalently within low income and minority areas. Therefore, the 2003 enforcement and outreach efforts targeted selected areas based on these criteria. Overall, we conducted more than 100 Market Place and Pesticide Distributor inspections. During these inspections we found and removed from the market over 90 different illegal pesticides offered for sale, in very large quantities. In January 2003, we conducted a 3-day long enforcement effort targeting all of the Chinese communities within New York City. Over a three day period 118,880 pounds of illegal pesticides were quarantined and sent back to their country of origin, reducing residents exposure to dangerous and illegal pesticides. At the end of this effort, our Regional Administrator, joined by the NYSDEC and local Chinese community leaders addressed the press about the dangers of using illegal pesticides as well as about the actions undertaken by EPA. Picture below.

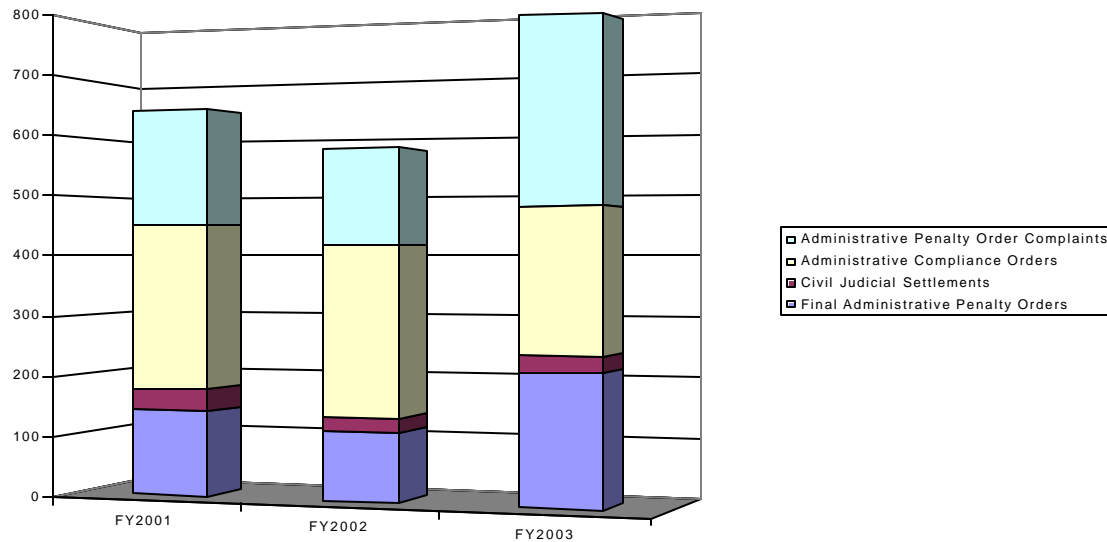


## SMART ENFORCEMENT



Our goal at EPA Region 2 is to implement a smart enforcement program that delivers environmental results. Smart enforcement uses a mix of integrated strategies, partnerships and innovative approaches to provide cleaner air, purer water and better protected land. An integrated approach considers the appropriate tools to use when addressing environmental problems, and uses data analysis and other relevant information to marshal and leverage resources to target significant noncompliance and the associated environmental risks. The following highlights several of our Smart Enforcement activities during FY2003.

Settlements and Orders - FY2001 to FY2003



### Region 2 EPCRA § 313 Late Reporter Initiative - "Expedited Settlements"

In November 2001, a search of the Toxics Release Inventory (TRI) database revealed a large number (> 800) of TRI Form R reports for reporting years 1997- 1999 that were submitted late to the National Reporting Center. Region 2 commenced an enforcement initiative against significant late reporters to level the regulatory playing field. All facilities reporting more than 90 days late were contacted and offered reduced penalties (75% reductions) in view of these self-reported violations. The process centered on the issuance of "opportunity (show cause)" letters followed by information/negotiation discussions culminating in the issuance of consent agreement and final orders (CAFOs).

As of September 30, 2003, 122 (show cause) letters were issued to facilities who submitted TRI reports for 1997 -2001 more than 90 days late. Sixty six (66) CAFOs were issued and an additional 7 CAFOs were being processed for signature (total penalties exceed \$600,000). Forty three (43) cases were being addressed without penalties, and 6 cases remained under review. About 30 Notices of Non Compliance (NONs) were issued.

This smart enforcement response to significant TRI late reporting was accomplished consistent with the established TRI Enforcement Response Policy (penalty policy) without encumbering attorney resources, and in relatively short order. The effort saved an estimated \$600,000 in EPA personnel costs (including attorney time) and assessed more than \$600,000 in penalties.

## College/University Initiative



EPA Region 2 has continued focusing its attention on colleges and universities because of past findings that many such institutions were not aware of their responsibilities under various environmental laws. In some cases, this lack of awareness put their staff and students at risk. We also recognized that many of these facilities were the size of a village or town with multiple services including power plants, housing, storage tanks, incinerators, laboratories, and cleaning facilities. Since FY 2001, Region 2 has provided outreach to colleges/universities to increase their awareness of environmental regulations and to encourage them to develop environmental management systems and implement pollution prevention opportunities. The Region held 20 environmental compliance and pollution prevention workshops for colleges/universities in partnership with state environmental agencies and trade/professional associations and reached more than 900 people. The Region also sent out letters to colleges/universities telling them about the initiative and providing information on available compliance assistance and developed a website (<http://www.epa.gov/region02/p2/college/>) to better provide relevant information quickly.



### Vassar College

On September 25, 2003, Region 2 issued an Administrative Penalty Order (APO) against Vassar College of Poughkeepsie, N.Y. for violations of the Resource Conservation and Recovery Act (RCRA). This action resulted from an inspection conducted in March 2002. The Complaint includes the following six (6) counts: 1) Failure to make a hazardous waste determination; 2) Storage of hazardous waste without a permit; 3) Failure to fulfill emergency preparedness and prevention requirements; 4) Failure to familiarize employees with waste handling and emergency procedures; 5) Failure to minimize the possibility of releases; and 6) Failure to maintain UST release detection records. One of the conditions found at Vassar College of particular concern was the discovery of old crystallized picric acid which, following the discovery by Region 2 inspectors, was removed by the Westchester County Bomb Squad and detonated. The total penalty for this Complaint is \$97,581. The Region is currently negotiating a SEP

Region 2 encouraged colleges and universities to perform voluntary self-audits of their campuses, to correct any violations found, and to disclose the violations to EPA in return for reduced penalties. Thus far, more than 75 campuses in New York, New Jersey, and Puerto Rico have submitted disclosures to EPA and more than \$2,600,000 in potential penalties have been waived. We also entered into campus-wide audit agreements with the State University of New York (SUNY), the City University of New York (CUNY), and Rutgers, the State University of New Jersey, as well as nine other colleges/universities. The audit agreements that have been signed with academic institutions cover more than 100 campuses and more than 890,000 students.

**EPA Region 2 will continue to conduct inspections of those colleges/universities that did not take advantage of our Voluntary Audit Policy and take appropriate enforcement actions. So far, 21 campuses have been inspected and more than \$2,000,000 in penalties have been proposed. Eleven RCRA penalty complaints had been issued. Five RCRA penalty orders were settled. Three High School Initiative Supplemental Environmental Projects (SEPs) are a part of the orders issued against Columbia, Long Island University and Pratt worth \$410,000. Additional SEPs are worth about \$500,000.**

**The Region believes this type of follow-up is necessary both to protect the health of students and faculty and to provide a level playing field for those colleges and universities that have made the effort to comply.**

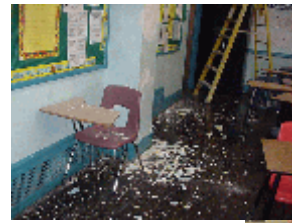
## Children's Health Initiative

Protection of children's health remains a high priority for EPA. In FY2003, Region 2's Children's Health Enforcement Team focused on Newark, New Jersey, and Syracuse, New York, to determine the status of lead in drinking water in schools, provide compliance assistance, and review compliance with asbestos and residential lead regulations. These communities were chosen based on the high incidence of children with elevated blood lead levels, and their status as potential Environmental Justice communities based on either percent of minority or low income population. The Region also examined AHERA (asbestos in schools) compliance in the Puerto Rico public school system.



Preliminary results of AHERA inspections in the Newark Public Schools identified several areas in various schools where exposed asbestos pipe and sprayed-on insulation were in disrepair, and needed to be isolated. Thirty lead-based paint disclosure inspections in Newark yielded one referral to the federal Department of Housing and Urban Development and three enforcement actions.

AHERA inspections by EPA of five Puerto Rico public schools in 2002 and early 2003 found administrative violations as well as damaged and/or deteriorated conditions of ACBM or suspect ACBM in some schools. Four hundred additional inspections by the Puerto Rico Department of Education and Puerto Rico Public Building Authority led to the closing of eight schools and the partial closing of approximately 30 schools until proper abatement is conducted and air quality monitoring indicates no asbestos health hazards.



### ACBM problems at Public Schools

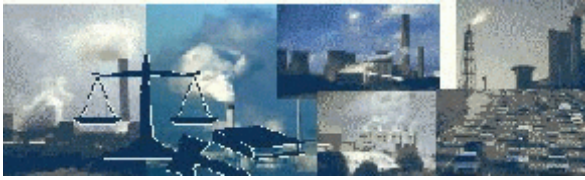
In Syracuse, NY, one third of the 19 schools sampled by EPA had at least one water outlet with lead levels above the 20 parts per billion (ppb) guidance level, and half of the 29 schools sampled by the school district had at least one high outlet. The school district immediately took the affected outlets out of service; it will install point of use filter units on these outlets and maintain a cartridge replacement program. EPA inspections of seven Syracuse schools found minor AHERA violations at all locations, but no damaged asbestos containing building materials (ACBM). EPA conducted 39 lead-based paint disclosure inspections in the Syracuse area. Almost 10% of the inspections found violations meriting formal enforcement action.

The Newark Public Schools informed EPA that all schools were sampled for lead in drinking water in 1988. Filters were installed as necessary, and the school district instituted programs to flush distribution systems daily and replace filter cartridges regularly. Sampling by EPA found exceedances at two of three schools tested. The school district replaced all filters and is currently re-sampling all schools.



**Regional Administrator Jane M. Kenny with NYC Parks Commissioner and a 6<sup>th</sup> grade student in Central Park**





## IMPROVING AIR QUALITY

### Coastal Eagle Point Oil Company

In September 2003, Coastal Eagle Point Oil Company (CEPOC) agreed to a civil settlement for violating Federal and State Clean Air Act requirements at its refinery located in Westville, New Jersey. Under the terms of the consent decree, CEPOC will install and operate innovative pollution control technology at several process units which will result in emission reductions of over 1,100 tons annually of several pollutants, including oxides of nitrogen, carbon monoxide, volatile organic compounds, and particulate matter. The agreement requires CEPOC to pay a \$1.25 million civil penalty to the United States Treasury, and \$1.25 million to the state of New Jersey. The injunctive relief is estimated by CEPOC to be approximately \$3-7 million. CEPOC will also pay \$1.0 million to partially fund an environmentally beneficial project designed to eliminate diesel emissions from idling trucks at the Paulsboro Travel Center located at exit 18A of Interstate 295, Gloucester County. The money will be used for electrical hook-up facilities at about 100 parking spaces. The estimated annual emission reductions from the idling trucks is approximately 50 tons of oxides of nitrogen, 1.5 tons of particulate matter, 4 tons of volatile organic compounds, 33 tons of carbon monoxide, and 6,700 tons of carbon dioxide, a greenhouse gas. The New Jersey Department of Environmental Protection, and the New Jersey Attorney General's Office were also signatory to the settlement proceedings. One of the main features of the CEPOC agreement was that it contained very stringent hourly-emission limitations (short term) that were not included in any of the previous national settlements.

### U.S. v. Ganes Chemical

On February 19, 2003, EPA Region 2 and the Department of Justice settled an enforcement action against Ganes Chemicals Inc. for violations of the Clean Air Act. The EPA found this facility in violation of the New Source Performance Standard (NSPS), Subpart D notification requirements, chlorofluorocarbon (CFC) leak work practice standards, and stratospheric ozone protection regulations. The consent decree provides for payment of \$303,600 in civil penalties. As a result of this case, Ganes Chemical has implemented a sound CFC leak detection and repair management system to prevent any CFC leaks. This case will result in a reduction of 60 pounds of CFC emissions to the atmosphere.

## PROTECTING COMMUNITIES

### Puerto Rico Aqueduct and Sewer Authority (PRASA) - Sewage Overflows

On July 1, 2003, DOJ and EPA entered into a settlement with PRASA, resolving allegations dating from September 2000 that the company unlawfully discharged untreated sewage into the environment of Puerto Rico and violated pollutant discharge permits issued by EPA under the Clean Water Act. PRASA discharged raw sewage and other pollutants into navigable waters from 471 pump stations throughout the island of Puerto Rico, and failed to properly operate and maintain the pump stations.

The Consent Decree requires PRASA and the operator of its aqueducts and sewers (ONDEO de Puerto Rico, Inc.) to complete construction and take other remedial actions to eliminate long-standing noncompliance at 185 sewage pump stations. The companies must also develop and implement a comprehensive plan for the operation and maintenance of PRASA's entire system of more than 600 pump stations, and implement a system-wide spill response and cleanup plan, at a total estimated cost of over \$300 million. As the operation and maintenance plan is phased in, the discharges of raw sewage from PRASA's pump stations should diminish considerably. PRASA and its former operator, defendant Compania de Aguas de Puerto Rico, will also pay a \$1 million civil penalty for their past violations of the Clean Water Act. In addition, PRASA has agreed to spend \$1 million on a supplemental environmental project that will help low-income, rural communities improve the quality of their drinking water.



### West Nile Virus - Pesticide Application

This year, our office participated in the calibration of ground and aerial spray equipment in both New Jersey and New York City. We conducted numerous night field observations of adult mosquito control applications. Together with the New York State Department of Environmental Conservation (NYSDEC), we conducted sampling of all pesticide products used to evaluate the level of compliance. These samples were analyzed by the NYSDEC's laboratory. We continued conducting ambient water monitoring activities in New Jersey and New York City, collecting a total of over 100 water pre- and post-application samples from the sensitive water bodies located within the sprayed areas, samples which were analyzed by the Region 2 Edison laboratory. The results of the analyses indicated that presently New York City is conducting an excellent mosquito control program. Additionally, our office is serving in several local and state West Nile Virus (WNV) Task Force organizations, and is also the only EPA Region serving as a full member in the White House-appointed Federal Inter-Agency WNV Task Force. As member of this group, this year we participated in two Congressional briefings.



## Healthcare Initiative

### Why Healthcare Facilities?

The approximately 500 hospitals in Region 2 perform an invaluable service to the public. They, also, however, pose a major environmental and public health concern. First, they contribute to the presence of mercury, dioxin, and other persistent, bioaccumulative toxics (PBTs) in the environment. Mercury, in particular, is of great concern in the Northeast. Rates of mercury deposition are estimated to be higher in the northeastern U.S. relative to most other parts of the country and extensive scientific data indicate that mercury is pervasive in freshwater fish in the Northeast at levels that pose health risks to people and some species of fish eating wildlife. In New York, for instance, the Department of Environmental Conservation's most recent fish advisories had 35 bodies of water contaminated with mercury throughout the state. In New Jersey, there are 85 different fish advisories (many with 2-4 subadvisories by species of fish) for streams, creeks, parts of rivers, lakes and reservoirs for mercury alone.

In addition to mercury, hospitals are generators of a wide variety of hazardous wastes, such as chemotherapy and antineoplastic chemicals, solvents, formaldehyde, photographic chemicals, radionuclides, and waste anesthetic gases. They also produce two million tons of solid waste which is 1% of the total municipal solid waste in the United States. Furthermore, medical facilities contribute to various air pollution problems including smog, climate change, the depletion of the stratospheric ozone layer, and air toxics.

### What EPA has Done to Help Healthcare Facilities to Reduce their Environmental Footprint?

In response to the above concerns, EPA Region 2 has been providing environmental assistance to healthcare facilities to increase their understanding and awareness of environmental requirements, to promote the development of environmental management systems, and to encourage hospitals to join the Hospitals for a Healthy Environment Program or H2E which is a joint project of the American Hospital Association, EPA, Healthcare Without Harm, and the American Nurses Association to educate health care professionals about pollution prevention opportunities in hospitals and health care systems. So far, we have held eleven compliance assistance seminars and one environmentally preferable purchasing conference with the help of EPA Regions 1 and 3, state environmental agencies, environmental groups, and healthcare associations reaching more than 800 entities. In addition to full seminars, we have given presentations at over a dozen healthcare meetings/conferences and are working with the Veterans' Health Administration to develop a national environmental training program for VA hospitals. We also developed a CD-ROM of healthcare compliance assistance tools and a website ( <http://www.epa.gov/region02/healthcare> )

In December 2002, EPA Region 2 sent out a letter informing healthcare facilities of EPA Region 2's targeting healthcare facilities for inspections and enforcement and urging them to perform self-audits and disclose any violations to us under our voluntary audit policy. This initiative is different from our other initiatives in that compliance inspections are being conducted in conjunction with compliance assistance activities to encourage greater participation in the initiative.

### How has the regulated community responded?

So far, fourteen hospitals/hospital systems have entered into audit agreements with EPA covering all major federal environmental programs including air, water, pesticides, solid and hazardous wastes, emergency planning, Community Right-to-Know and toxic substances control. **These agreements include the largest hospital in New York City; the third largest teaching hospital in the United States;** one of the nation's 100 top hospitals; and the largest musculoskeletal tissue bank in the world. **Over a dozen additional hospitals/hospital systems are actively negotiating audit agreements with Region 2 and we expect these agreements to cover more than 100 individual hospitals and affiliated facilities.** Moreover, 39 hospitals/healthcare systems in NY and NJ have joined the H2E Program.

### What about Healthcare Facilities that are in violation but refuse to take advantage of EPA's Audit Policy?

EPA Region 2 will be conducting inspections at those healthcare facilities who have chosen not to participate in our audit program in order to ensure that all hospitals are complying with applicable laws and regulations. Since 2000, we have conducted 13 inspections of healthcare facilities and have issued five complaints totaling \$867,898 in penalties. More are expected in the near future.

#### New York Presbyterian Hospital

New York Presbyterian Hospital was charged with failing to provide tenants, including pregnant women and families with young children, with the required lead paint hazard information ( i.e. failing to provide a lead warning statement, statement disclosing any knowledge of lead-based paint, and list of any existing records or reports pertaining to lead-based paint, nor obtaining a statement by the lessee of receipt of a lead hazard information pamphlet).

Lead poisoning presents an environmental health hazard for young children living in apartments constructed before 1978, due to the potential chipping or peeling of lead paint, or lead-contaminated dust. New York Presbyterian Hospital owned and leased at least twenty-nine housing units to families of physicians at their facility in White Plains, New York. Region 2 suggested possible activities that could be undertaken as Supplemental Environmental Projects, and New York Presbyterian Hospital submitted a proposal for a SEP that involved exterior maintenance and repair, but the parties were unable to reach agreement on an appropriate SEP. New York Presbyterian Hospital entered into a cash settlement with EPA for \$248,000, which is the largest monetary settlement in the history of the Lead-based Paint Disclosure Program. On July 10, 2003, the Regional Administrator signed the Final Order memorializing the settlement in the Consent Agreement and



**Signing Ceremony at Local Range**

## COMPLIANCE ASSISTANCE

### Lead Shot Initiative

"It is with no shame that considerable use has been made of ... the U.S. EPA's material on environmental issues and their management at outdoor shooting ranges. The work done in America stands as a model for other countries seeking also to manage their shooting ranges sympathetically with the environment and with the communities in their locality." Quote from -- *A Handbook for European Range Managers: Shooting Ranges and the Environment*, Association of European Manufacturers of Sporting Ammunition, 2002.

Lead is a highly toxic and bioaccumulative material with the potential for serious health effects. Each year outdoor shooting ranges in the U.S. deposit more than 160 million pounds of lead into the environment through the discharge of firearms. The lead on these ranges can mobilize and present an environmental health threat depending on conditions such as rainfall and pH.

### Greening the Government Workshop

EPA Region 2, along with EPA Regions' 1 and 3 and the Northeast Waste Management Officials' Association, co-sponsored a greening the government workshop in Philadelphia, PA in June 2003. The purpose of the workshop was to help federal, state, and local government officials implement pollution prevention and waste minimization opportunities at their facilities. Topics covered included environmentally preferable purchasing, electronics, environmental management systems, green cleaning, beneficial landscaping, clean fuels and vehicles, green buildings, and healthy indoor environments.

One the highlights of the conference was the keynote speech by William McDonough, an internationally renowned architect whose design firm practices ecologically, socially, and economically intelligent architecture and planning in the U.S. and abroad. His ideas and efforts were honored in 1996 when he became the only individual to receive the Presidential Award for Sustainable Development, the nation's highest environmental honor and in 1999 when he was recognized by Time Magazine as a "Hero of the Planet". His message to the over 100 people attending was that it is possible to design products, buildings, even cities that are environmentally sustainable.

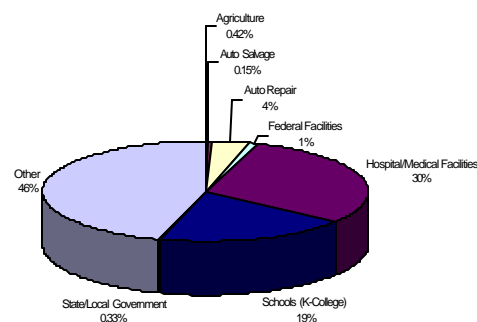
Inspired by his speech and the information provided at the seminar, the federal facilities present expressed an interest in the establishment of an Eastern Federal Sustainability Network modeled after the one on the west coast as a way for federal facilities from Maine to Florida to work together to promote greener practices in the federal government. EPA Region 2 is currently working with EPA Regions 1, 3 and 4, the Department of Defense, and the Office of Federal Environmental Executive to make this concept a reality.

Noting the potential environmental health threat posed by these ranges and the fact that they are primarily a non-regulated sector that has not been addressed previously, EPA Region 2 decided to develop technical guidance for the ranges. By working with the industry, EPA Region 2 was able develop a manual of Best Management Practices (BMP) that have been proven to effectively reduce or eliminate lead contamination and may also be economically beneficial to the range owner/operator.

In order to promote the use of the manual, Region 2 initiated a broad based outreach effort throughout the U.S.; over a dozen seminars/ workshops were conducted, in cooperation with our partners, training over 500 range owners. Over 2,000 copies of the BMP manual were sent to requestors across the U.S. Thousands more were downloaded from the EPA Lead Shot website.

Region 2 worked with specific ranges in their development of Environmental Stewardship Plans leading to award of an EPA Certificate of Recognition. From October 1, 2002 to September 30, 2003, EPA Region 2 has received twenty (20) Environmental Stewardship Plans. These include the first city in the United States (Juneau, Alaska), the first county (Burlington, NJ) and the first private range (Peconic River Sportsman's Club, Manorville, NY) to submit plans. We estimate that approximately 50,000 pounds of lead will be environmentally managed and/or reclaimed as a result of the implementation of these twenty plans.

Total FY2003 Entities Reached by EPA Compliance Assistance Activities



# SUPERFUND ENFORCEMENT PROGRAM

During fiscal year 2003, the Region 2 Superfund enforcement program continued its longstanding success, ensuring that private parties fund and perform the maximum amount of work possible, and reserving superfund monies for sites where there are no viable responsible parties.



During the year, 33 settlement agreements were finalized, valued at \$72.8 million in private party response work and \$64.4 million in cost recovery to the fund. These settlements included five major cleanup agreements for remedial design, remedial action and large removal actions to address immediate risks, meeting the Region's target. The region exceeded its target of addressing cost recovery at 32 sites with costs over \$200,000; 36 sites were addressed. Two de minimis settlements were finalized. The Region continued to implement the administrative reforms to the program, offering orphan share compensation where appropriate, entering into settlements based on ability to pay and using tools such as site-specific special accounts.

The Region is proud to report the success of the Superfund enforcement program to date. Since 1980, 751 settlement agreements have been signed, valued at nearly \$2.4 Billion in private party response work, and \$815 Million in cost recovery to the Fund; in total over \$3 Billion in responsible party funding in Region 2.

## WETLANDS

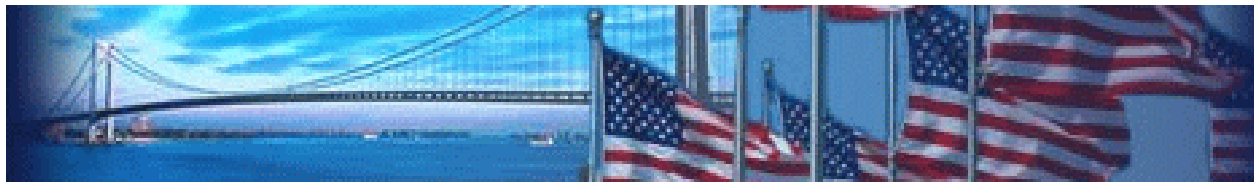
Enforcement of Section 404 of the Clean Water Act, which regulates dredge/fill activities in waters of the United States, including wetlands, is the shared responsibility of EPA and the U.S. Army Corps of Engineers. Pursuant to a nationwide Memorandum of Agreement, EPA pursues repeat Section 404 violators and flagrant cases, whereas the Corps pursues routine enforcement and permit compliance. The following are EPA Region 2's significant accomplishments in FY03.

**Investigations** - Five investigations were initiated for cases referred to Region 2 by the U.S. Army Corps of Engineers as unauthorized discharges of dredged or fill material into waters of the United States (wetlands and streams) in violation of Section 404 of the Clean Water Act. Violations were found for three of the five cases, and administrative compliance orders have been issued and administrative penalty complaints filed for these. The fifth case is still under investigation. **Inspections** - Twenty-five inspections were completed. These included inspections related to new cases under investigation, follow-up inspections for cases that have pending actions, and compliance monitoring for existing administrative compliance orders on older cases.



**Compliance Orders and Penalties** - Five Section 309(a) compliance orders were issued to resolve cases which were initiated in FY02 or FY03. One requires creation of almost 6 acres of new wetlands to replace approximately 3 acres of wetlands that were illegally filled for of a condominium development. It is expected that this compensatory mitigation will cost close to \$900,000. A Section 309(g) administrative penalty complaint for \$137,500 was also filed for this case. Another compliance order requires creation of approximately 2 acres of new wetland to compensate for illegal filling of approximately two-tenths acre of a stream and wetlands for a single-family housing project. For this case, a \$27,500 administrative penalty complaint was filed. The other three compliance orders similarly required compensatory mitigation or fill removal with site restoration for small amounts of fill discharged by repeat or flagrant violators. All five cases were in Puerto Rico. Four Section 309(g) administrative penalty complaints were filed, including the two mentioned above. The other two complaints each seek \$27,500. All of these were for cases in Puerto Rico.





## SUPPLEMENTAL ENVIRONMENTAL PROJECTS

Region 2 approved twelve SEPs in fiscal year 2003 which is an increase from eleven in FY 2002. One of these SEPs will result in rural communities in Puerto Rico having for the first time filtration and disinfection of drinking water. This will reduce the number of positive bacteriological impacts to residents.

Another SEP will result in the development of outreach material in the form of a printed manual; an interactive, computer-based CD-ROM (CD); and a VHS-format video. These materials will provide guidance to high schools students, teachers, administrators and maintenance/operating personnel regarding compliance with environmental rules and regulations. It will also include guidance regarding environmental stewardship with respect to chemical handling, hazardous waste management and disposal, identification of regulated waste streams, safe use and proper storage of laboratory chemicals and hazard communication.

Fiscal Year	2000	2001	2002	2003
Number of SEPs	27	9	11	12
SEP Value	\$10,092,573	\$1,554,827	\$6,068,563	\$2,440,433

### SEP Bank Database

To further encourage use of the SEP policy, Region 2 has designed and is managing an intranet site for collection of ideas which can be developed into viable environmental beneficial projects. The website is also linked to ECHO's recent enhancement which allows users to search EPA approved SEPs. A panel of five cross-program and regional counsel representatives reviews ideas submitted against the SEP policy. This ensures that ideas meet requirements of the SEP policy and are entered into a database accessible to regional managers for sharing with respondents during settlement negotiations.

### Virgin Petroleum, et al., To Pay a Civil Penalty and Perform Two SEPs in Settlement of an UST Administrative Enforcement Case in the U.S. Virgin Islands

In September 2002, EPA filed an Administrative Complaint against Virgin Petroleum and six affiliated companies, the owners and/or operators of six gas stations in St. Croix. The Complaint sought a civil penalty of \$82,087 for violations of RCRA underground storage tank (UST) regulations pertaining to information submission requests, release detection and release detection records, temporary closure, and financial assurance.

As part of the settlement of this case, the Virgin Petroleum companies will pay of a civil penalty in the amount of \$19,903, and perform two SEPs with estimated costs of \$138,200. The projects will entail installation of Automatic Tank Gauging systems to improve Virgin Petroleum's leak detection capabilities at their facilities, and the performance of an environmental compliance audit at the facilities to check the applicability of and compliance with Federal UST, RCRA used oil, and Safe Drinking Water Act underground injection control requirements.



**United States Environmental Protection Agency**  
**Criminal Investigation Division**  
**New York Area Office**



	<b>FY2002</b>	<b>FY2003</b>
<b>Referrals</b>	32	26
<b>Defendants charged</b>	60	22
<b>Incarceration (months)</b>	219	256
<b>Fines</b>	\$2,456,000	\$1,802,546
<b>Restitution</b>	\$452,351	\$1,092,665

**U.S. v. Trinity Railcar Repair, Inc.** (Northern District of New York) Trinity Railcar Repair pled guilty to a charge of violating the Clean Air Act by negligently causing the release of a hazardous pollutant into the air, thereby endangering others. The release of ammonia gas over the course of three days from a leaking railroad tank car caused the evacuation of residential areas of Fort Edward, New York and the hospitalization of numerous individuals. Trinity had repaired the tank car prior to the release and had negligently installed a flange in the car, thereby causing the subsequent release. Pursuant to the plea agreement, accepted by the court at sentencing on November 21, 2002, Trinity was fined \$200,000. It also was ordered to pay \$75,000 to the National Fish and Wildlife Foundation, money which will be used to obtain emergency response equipment to address releases of hazardous substances in New York State. Trinity was also ordered to pay \$125,000 to Washington County in New York, with the funds to be used to obtain equipment to address releases of hazardous materials in that County. Pursuant to the plea agreement, Trinity had further agreed to pay a civil penalty of \$82,400 to the Federal Railroad Administration and to pay over \$400,000 in restitution to Finch-Pruyn and the Canadian Pacific Railroad for costs incurred during their attempts to stop the leak.

**U.S. v. CWS Industries, Inc.** (District of New Jersey)  
On February 24, 2003 CWS Industries, Inc.; Craig Smith, President of CWS; and Wallace Smith, Vice President of CWS, were sentenced after having pled guilty to charges of knowingly violating Clean Water Act pretreatment standards. CWS is an electroplating firm which discharged high levels of heavy metals into the Camden County Municipal Utility Authority's wastewater treatment system without a required permit from the CCMUA. Notably, CWS had previously pleaded guilty to a State charge in 1995 for water pollution violations and had been fined \$10,000 then. This time, CWS was again fined \$10,000 and was placed on five years probation. In addition, its president and vice president were sentenced this time, Craig Smith receiving six months imprisonment, five months home confinement, one year probation, along with a \$100 fine, and Wallace Smith receiving seven months imprisonment, six months home confinement,

**U.S. v. David Ritter** (Northern District of New York) A former manager of a Syracuse environmental cleanup company was sentenced on May 10, 2003 to three months in prison for illegally storing picric acid at a warehouse near the state fairgrounds three years earlier. David A. Ritter had pled guilty to violating the Resource Conservation and Recovery Act by storing between 50 and 75 pounds of the explosive TNP, or picric acid, in the same 55-gallon drum as thermit, an incendiary hazardous waste, knowing the company didn't have a license to store such materials. State police and the DEC had to evacuate a motel and neighboring businesses and close other businesses near the warehouse before bomb squads stabilized the material. The situation became urgent when a state police bomb expert was lifting a vial of picric acid out of a 55-gallon drum and the bottom of the vial broke off. Ritter received the materials from CRI Environment of Coteau-du-Lac, Quebec, Canada, in December 1999. CRI Environment, which disposes of hazardous materials, pled guilty in June 2003 to transporting hazardous waste into the United States from Canada under a phony manifest and shipping records making it appear the chemicals were not as dangerous as they were. CRI was fined \$30,000.

**U.S. v. Tony Brown** (Southern District of New York) Tony Brown, doing business as Tornado Environmental Company, conducted an asbestos removal at the New York State Supreme Courthouse in Queens, New York. The asbestos removal was done without wetting the asbestos first, in violation of the Clean Air Act requirements. He conducted a similarly illegal asbestos removal at the Kings County Hospital in Brooklyn, New York. He was charged in an indictment with two counts of violating the Clean Air Act and two counts of conspiracy and he pled guilty to a conspiracy count. On April 11, 2003, he was sentenced to five months imprisonment, five months of home confinement, and two years probation.